

MONTANA LEGISLATIVE HISTORY

Chapter 415 1991

Bill H 4187 S _____ Original bill & history ✓ c

H. Committee on Local Government

Hearing Date(s) 2-19 _____ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Fish & Game

Hearing Date(s) 3-121 _____ c

3-24 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 488

2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/16	2ND READING PASSED	79	11
2/19	3RD READING PASSED	87	10
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO NATURAL RESOURCES		
3/25	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/28	2ND READING CONCURRED	49	0
4/01	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
4/03	SIGNED BY SPEAKER		
4/03	SIGNED BY PRESIDENT		
4/03	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 389		
	EFFECTIVE DATE: 7/01/91		

HB 486 INTRODUCED BY WANZENRIED

APPROPRIATE MONEY TO OFFICE OF PUBLIC INSTRUCTION
TO DEVELOP AND SELL ACCOUNTING SOFTWARE

1/31	INTRODUCED
1/31	REFERRED TO EDUCATION & CULTURAL RESOURCES
1/31	FIRST READING
2/13	HEARING
	DIED IN COMMITTEE

HB 487 INTRODUCED BY WYATT, ET AL.

LIMIT RELOCATION OF SHOOTING RANGE AND
COMPENSATE FOR RELOCATION OF RANGE

1/31	INTRODUCED		
1/31	REFERRED TO LOCAL GOVERNMENT		
1/31	FIRST READING		
2/19	HEARING		
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	84	14
	TRANSMITTED TO SENATE		
2/25	FIRST READING		
2/25	REFERRED TO FISH & GAME		
3/14	HEARING		
3/27	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED	48	2
4/04	3RD READING CONCURRED	44	6
	RETURNED TO HOUSE		
4/11	SIGNED BY SPEAKER		
4/11	SIGNED BY PRESIDENT		
4/11	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 415		
	EFFECTIVE DATE: 4/15/91		

HB 488 INTRODUCED BY O'KEEFE, ET AL.

USE USDA COST OF RAISING A CHILD TO SET THE RATE OF
PAYMENT FOR FOSTER CARE

1/31	INTRODUCED
1/31	REFERRED TO HUMAN SERVICES & AGING
1/31	FIRST READING
1/31	FISCAL NOTE REQUESTED
2/05	FISCAL NOTE RECEIVED
2/07	FISCAL NOTE PRINTED
2/11	HEARING

HOUSE BILL NO. 487

INTRODUCED BY WYATT, DRISCOLL, STEPPLER, FORRESTER, CLARK,
G. BECK, ELLIS, ELLISON, PETERSON, STANG, DARKO, STRIZICH,
MEASURE, D. BROWN

IN THE HOUSE

JANUARY 31, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

FIRST READING.

FEBRUARY 21, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

POSTED ON ALTERNATIVE CONSENT CALENDAR.

FEBRUARY 22, 1991

PRINTING REPORT.

FEBRUARY 23, 1991

THIRD READING, PASSED.
AYES, 84; NOES, 14.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 25, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

FIRST READING.

MARCH 27, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 3, 1991

SECOND READING, CONCURRED IN.

APRIL 4, 1991

THIRD READING, CONCURRED IN.
AYES, 44; NOES, 6.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 4, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *487*
 2 INTRODUCED BY *Jeffrey Russell Stephens*
 3 *Corrigan, G. Bal, D. Ellison, Peterson, Stang*
 4 *Measure* A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING SHOOTING
 5 RANGE LOCATIONS; EXEMPTING SHOOTING RANGES FROM CERTAIN LAWS
 6 RELATING TO LITTER CONTROL, COMMUNITY DECAY, DISORDERLY
 7 CONDUCT, AND PUBLIC NUISANCE; AMENDING SECTIONS 7-5-2109,
 8 7-5-2110, 45-8-101, AND 45-8-111, MCA; AND PROVIDING AN
 9 IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Policy. It is the policy of
 13 the state of Montana to provide for the health, safety, and
 14 welfare of the citizens of the state by promoting the safety
 15 and enjoyment of the shooting sports among the citizens of
 16 the state and by protecting the locations of and investment
 17 in shooting ranges for shotgun, archery, rifle, and pistol
 18 shooting.

19 NEW SECTION. Section 2. Prohibitions. (1) Standards
 20 adopted by a state agency or unit of local government to
 21 limit levels of noise that may occur in the outdoor
 22 atmosphere may not apply to shooting ranges.

23 (2) Standards adopted by a state agency or unit of
 24 local government promulgated pursuant to Title 75 and
 25 concerning pollution by lead, copper, or brass may not limit

1 or prohibit the operation of a shooting range because of
 2 lead, copper, or brass deposition resulting from shooting
 3 activities.

4 NEW SECTION. Section 3. Planning -- effect on shooting
 5 ranges. The laws of this state concerning planning, master
 6 plans, or comprehensive plans may not be construed to
 7 authorize an ordinance, resolution, or rule that would
 8 prevent or inhibit the operation of a shooting range.

9 NEW SECTION. Section 4. Zoning -- effect on shooting
 10 ranges. A planning district master plan, recommendation,
 11 resolution, rule, or zoning designation may not prevent or
 12 inhibit the operation of a shooting range.

13 NEW SECTION. Section 5. Closure of shooting ranges --
 14 limitations -- relocation cost. (1) Except as provided in
 15 subsection (2), an established shooting range may not be
 16 prevented from operation by a state agency, unit of local
 17 government, or court unless the range presents a clear and
 18 provable safety hazard to the adjacent population.

19 (2) (a) If a pressing public need exists because of
 20 incompatibility with nearby population or land use, an
 21 established shooting range may be relocated by an agency of
 22 state government, unit of local government, or court, but
 23 only if all of the following conditions are met:

24 (i) pressing public need is documented through
 25 hearings, testimony, and a clear and precise statement of

1 need by the agency, unit of local government, or court
2 involved;

3 (ii) a suitable alternative site for the range is
4 located and obtained by the agency or unit of local
5 government;

6 (iii) the agency or unit of local government ordering
7 relocation pays the entire cost of relocating the range,
8 including replacement of improvements, to a reasonably
9 suitable and reasonably similar facility and to a location
10 that is a similar distance from the populations served by
11 the original range; and

12 (iv) the maximum time that a range may be out of
13 operation because of relocation is 6 months.

14 (b) Upon final relocation of a range pursuant to this
15 section, the range operators shall relinquish their property
16 interest in the previous location in favor of the relocating
17 entity and must be granted a property interest in the new
18 location similar to that enjoyed by the range operators in
19 the vacated location.

20 (3) If a shooting range presents a clear and provable
21 safety hazard to adjacent population, the range may be
22 suspended from operation if:

23 (a) reasonable notice and opportunity to respond are
24 afforded the range operators; and

25 (b) reasonable opportunity is afforded the range

1 operators to correct any safety defects.

2 **Section 6.** Section 7-5-2109, MCA, is amended to read:

3 "7-5-2109. County control of litter. (1) (a) The
4 governing body of a county may regulate, control, and
5 prohibit littering on any county road and on land within the
6 county by the adoption of an ordinance that substantially
7 complies with the provisions of 7-5-103 through 7-5-107. The
8 ordinance may apply to portions of the county and may apply
9 to persons other than the owners of the property on which
10 littering occurs.

11 (b) The ordinance may not apply to lead, copper, or
12 brass deposits resulting from the shooting activities at a
13 shooting range.

14 (2) The governing body of a county may establish a fine
15 not to exceed \$200 as a penalty for violation of the
16 ordinance referred to in subsection (1). A violation of the
17 ordinance may not be punishable by imprisonment."

18 **Section 7.** Section 7-5-2110, MCA, is amended to read:

19 "7-5-2110. Community decay defined. (1) In 7-5-2111,
20 "community decay" means a public nuisance created by
21 allowing rubble, debris, junk, or refuse to accumulate
22 resulting in conditions that are injurious to health,
23 indecent, offensive to the senses, or obstruct the free use
24 of property so as to interfere with the comfortable
25 enjoyment of life or property.

(2) "Community decay" as used in 7-5-2111 may not be construed or defined to apply to:

(a) normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations; or

(b) activities at a shooting range."

Section 8. Section 45-8-101, MCA, is amended to read:

"45-8-101. Disorderly conduct. (1) A person commits the offense of disorderly conduct if he knowingly disturbs the peace by:

(a) quarreling, challenging to fight, or fighting;

(b) making loud or unusual noises;

(c) using threatening, profane, or abusive language;

(d) discharging firearms, except at a shooting range;

(e) rendering vehicular or pedestrian traffic impassable;

(f) rendering the free ingress or egress to public or private places impassable;

(g) disturbing or disrupting any lawful assembly or public meeting;

(h) transmitting a false report or warning of a fire or other catastrophe in such a place that its occurrence would endanger human life;

(i) creating a hazardous or physically offensive

condition by any act that serves no legitimate purpose; or

(j) transmitting a false report or warning of an impending explosion in such a place that its occurrence would endanger human life.

(2) Except as provided in subsection (3), a person convicted of the offense of disorderly conduct shall be fined not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 10 days, or both.

(3) A person convicted of a violation of subsection (1)(j) shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both."

Section 9. Section 45-8-111, MCA, is amended to read:

"45-8-111. Public nuisance. (1) "Public nuisance" means:

(a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a

1 public nuisance if he knowingly creates, conducts, or
2 maintains a public nuisance.

3 (3) Any act which affects an entire community or
4 neighborhood or any considerable number of persons (as
5 specified in subsection (1)(a)) is no less a nuisance
6 because the extent of the annoyance or damage inflicted upon
7 individuals is unequal.

8 (4) No agricultural or farming operation, place,
9 establishment, or facility or any of its appurtenances or
10 the operation thereof is or becomes a public nuisance
11 because of the normal operation thereof as a result of
12 changed residential or commercial conditions in or around
13 its locality if the agricultural or farming operation,
14 place, establishment, or facility has been in operation
15 longer than the complaining resident has been in possession
16 or commercial establishment has been in operation.

17 (5) Noises resulting from the shooting activities at a
18 shooting range are not considered a public nuisance.

19 ~~(5)~~(6) A person convicted of maintaining a public
20 nuisance shall be fined not to exceed \$500 or imprisoned in
21 the county jail for a term not to exceed 6 months, or both.
22 Each day of such conduct constitutes a separate offense."

23 NEW SECTION. Section 10. Applicability. [This act]
24 applies to shooting ranges in operation on or after [the
25 effective date of this act].

1 NEW SECTION. Section 11. Severability. If a part of
2 [this act] is invalid, all valid parts that are severable
3 from the invalid part remain in effect. If a part of [this
4 act] is invalid in one or more of its applications, the part
5 remains in effect in all valid applications that are
6 severable from the invalid applications.

7 NEW SECTION. Section 12. Effective date. [This act] is
8 effective on passage and approval.

-End-

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(H) LOCAL GOVERNMENT

PAGE NBR..... 110
 RUN TIME20:33
 RUN DATE.... 04/04/91

CHAIRMAN--DIANA WYATT

NORMAL SCHEDULE==> SITE: ROOM 312-2

DAYS: M,W,F

TIME: 3:00 P.M.

SECRETARY-LOIS O'CONNOR

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REFERRER TO COMM	DATE OUT
HB0230	1/17	2/05		DO PASS		2/13
LARSON, DON			ALLOWING FIRE DISTRICT TRUSTEES TO ESTABLISH CAPITAL IMPROVEMENT FUND			
HB0285	1/19	2/05		PASS AS AMENDED	TAXATION	2/06
SCHYE, TED			ALLOW COUNTY TO CHARGE FEE ON STRUCTURES FOR MOSQUITO CONTROL DISTRICT			
HB0290	1/21	2/05		DO PASS		2/06
BENEDICT, STEVE			ALLOWING DISTRICT COURT CLERKS TO MAINTAIN RECORDS ON COMPUTERS			
HB0295	1/21	2/07		DO PASS		2/08
BENEDICT, STEVE			ALLOW COUNTY OFFICER TO BE ABSENT FROM STATE FOR 15 DAYS WITHOUT PERMISSION			
HB0296	1/21	2/07		DO PASS		2/08
BENEDICT, STEVE			ALLOW COUNTIES TO ENTER INTO 10-YEAR INSTALLMENT PURCHASE CONTRACTS			
HB0328	1/22	2/12		PASS AS AMENDED		2/21
COBB, JOHN			STATE SINGLE AUDIT ACT			
HB0354	1/22	2/12		PASS AS AMENDED		2/13
SCHYE, TED			ALLOW COUNTY COMMISSIONERS TO LEVY ONE MILL FOR FIRE CONTROL			
HB0367	1/24	2/12		DO PASS		2/13
BROWN, JAN			EXPANSION OF BUSINESS IMPROVEMENT DISTRICTS			
HB0396	1/25	2/14		TABLED		
GRADY, ED			REQUIRE CREATION OF RURAL IMPROVEMENT DISTRICT BY LANDOWNER PETITION			
HB0483	1/30	2/19		TABLED		
KADAS, MIKE			AUTHORIZE MUNICIPALITIES TO ESTABLISH FIRE SERVICE AREAS			
HB0487	1/31	2/19		PASS AS AMENDED		2/21
WYATT, DIANA			LIMIT RELOCATION OF SHOOTING RANGE AND COMPENSATE FOR RELOCATION OF RANGE			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By DIANA WYATT CHAIR, on February 19, 1991, at
3:00 P.M.

ROLL CALL

Members Present:

Diana Wyatt, Chair (D)
Jessica Stickney, Vice-Chair (D)
Joe Barnett (R)
Arlene Becker (D)
Vivian Brooke (D)
Dave Brown (D)
Brent Cromley (D)
Paula Darko (D)
Tim Dowell (D)
Budd Gould (R)
Stella Jean Hansen (D)
Harriet Hayne (R)
Ed McCaffree (D)
Tom Nelson (R)
Jim Rice (R)
Sheila Rice (D)
Richard Simpkins (R)
Norm Wallin (R)

Staff Present: Bart Campbell, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: REP. WYATT said Executive Action on
remaining bills would be taken on Saturday, February 23,
1991, if necessary.

EXECUTIVE ACTION ON HB 497

Motion: REP. DARKO MOVED HB 497 DO PASS.

Motion: REP. DARKO moved to amend HB 497. EXHIBIT 1

Discussion:

REP. DARKO explained the amendments which renumber sections and
cleanup the bill.

Opponents' Testimony:

Paul Eastman, Chairman, Great Falls Transit District, stated the boards are in danger of being swayed on certain issues. The voters should be allowed to vote for whom they want.

Rick Brown, General Manager, Great Falls Transit District, stated members of his board are elected, provide a service to the community and do not get paid. The voters have the right to choose who should sit on their boards. If the boards are elected, it makes them less susceptible to political influences.

Questions From Committee Members:

REP. STICKNEY said HB 714 is an option bill; either elect or appoint a board member. She asked **REP. S. RICE** what the problem was. **REP. RICE** stated the decision is left up to the City and County Commissioner. The people from the Great Falls Transit District do not want the city and county making those decisions whether or not they are elected or appointed.

Closing by Sponsor:

REP. S. RICE asked the committee to table HB 714.

HEARING ON HB 487

Presentation and Opening Statement by Sponsor:

REP. WYATT, House District 37, Great Falls, stated HB 487 would protect shooting range locations and exempt shooting ranges from certain laws relating to litter control, community decay, disorderly conduct and public nuisance. A community should not encroach on a preexisting facility.

Proponents' Testimony:

Clyde Byerly, Montana Rifle and Pistol Association, provided written testimony. EXHIBIT 10

Bill Bigelow, National Rifle Association, stated many shooting facilities are finding neighborhoods growing up around them; and they decide, after the fact, that they can't tolerate the noise. They are able to bring public pressure upon the ranges to close them. Between the Fish, Wildlife and Parks and individual clubs in the state. \$300,000 has been spent building shooting facilities. HB 487 is needed to protect their investment.

Gary Marvitt, Montana Shooting Sports Association, said 85% of Montana households contain firearms. The people who own these firearms need to be safe in their use and ownership which means having adequate range space to use. There is a national problem

of encroachment and closure of shooting ranges. Shooting ranges need to be recognized as a property right protection. If a shooting range must be relocated, HB 487 provides protection in that the range cannot be out of operation for more than six months. Currently exempt from planning and zoning laws are agricultural, mining, timber, and federal properties. HB 487 states that planning and zoning cannot be used as an excuse to shut down a shooting range.

Forrest Pole, Missoula, stated safe shooting ranges are a benefit to the community and supported HB 487.

Alfred Elwell, Montana Weapons Collectors, said people who buy land and build around the shooting ranges, should take the responsibility for their own actions. They should use reasonable and prudent caution in the purchase of the property.

Robert Lovegrove, President, Western Montana Fish and Game Association, said his organization is in the process of acquiring property for a shooting range that has been in operation for 10 years. They would like to have the assurance that they wouldn't risk their investment as a result of being zoned out of existence. Shooting facilities in the proximity to population centers are critical. The need for replacement of property rights associated with a shooting range is important.

Opponents' Testimony:

Robert Rasmussen, Montana Association of Planners, said the association does support the concept of HB 487 with regard to the protection of investments. The approach to the problem is backwards. The prohibition of planning and zoning laws would prohibit the protection that is afforded by the statutes. The planning process provides the necessary guidance for compatible development in the area of existing uses. The title of the bill is inaccurate. It does not reference the substantive section of the bill that affects planning and zoning.

Ray Harbin, Lake County Commissioner, said local governments cannot afford to pay the entire cost of relocation of shooting ranges. He would support the bill with amendments. **EXHIBIT 11**

Cheryl Patton, Assistant City Manager, Great Falls, said HB 487 restricts local control and enforcement of shooting ranges. The bill is protectionistic to a special interest group and if passed, will be challenged by the city of Great Falls as unconstitutional. **Ms. Patton** opposed the section that states the local governments will bear the full cost of relocation. HB 487 denies the city its private property rights and compromise local governments authority to exercise its police power for the good of all citizens.

Alec Hansen, Montana League of Cities and Towns, said the bill gives the most incompatible uses of land the highest level of

protection under law. The cities and counties should not have to pay the entire cost of relocating a shooting range.

REP. WALLIN, House District 78, Bozeman, provide written testimony from constituents. EXHIBIT 12

Kathy Macefield, City of Helena, provided written testimony. EXHIBIT 13

Bruce McCandles, City of Billings, went on record in opposition of HB 487.

Closing by Sponsor:

REP. WYATT stated that there is no place for people who want shooting ranges to go to have a shooting range. Section 3 and 4 refer to pre-existing, in-operation shooting ranges so the zoning would affect future sights and locations but not zone out of existence those ranges in currently in operation.

EXECUTIVE ACTION ON HB 714

Motion: REP. S. RICE MOVED HB714 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 155

Discussion:

REP. D. BROWN stated the County Attorney's salary bill requested their salary be 100% equal to a judge's salary. The subcommittee drafted the following amendments. Salaries will be 95% of judge's salaries and leave the part-time County Attorney's salary as is. They can take advantage of outside incomes; and in legislation passed, they will get advantage of the COLA increases. This will cut the fiscal note to a third. A revised fiscal note will be requested upon approval of the committee and will go to Appropriations.

Motion: REP. D. BROWN MOVED HB 155 DO PASS.

Motion: REP. D. BROWN moved to amend HB 155. EXHIBIT 14

Discussion:

REP. D. BROWN explained the amendments.

REP. McCAFFREE asked REP. BROWN if the part-time County Attorneys' salaries will remain the same under the salary bill. REP. BROWN said yes. REP. McCAFFREE asked if the bill would increase the percentage for deputy county attorneys to 95%. REP. BROWN said their percentage would stay the same.

consolidated local governments, to have local option gambling. **REP. DARKO** asked if the bill would expand to include the seven reservations. **REP. BROWN** stated there are three levels of gaming allowed in the Indian Gaming Law. (1) Traditional Native American games such as stick games. (2) Games like bingo and keno. (3) Those areas where the state has laws on gambling. The reservations may have the same laws for the same amount of gambling. A contract is required between the Attorney General and the tribe in order to establish the limits. If they cannot agree they go to an independent arbitrator. The agreements then have to be approved by the Secretary of Interior who has jurisdiction over the Indian reservations. **REP. DARKO** asked if local governments would regulate their own gambling under HB 106. The bill would have to be amended to come under the regulations of the Attorney General. **REP. BROWN** said the state maintains gambling at present. HB 106 gives counties their own choice by vote.

Vote: Motion failed 5 to 13 with **REPS. BECKER, D. BROWN, GOULD, McCAFFREE** and **WYATT** voting aye.

Motion/Vote: **REP. D. BROWN** MADE A SUBSTITUTE MOTION TO TABLE HB 106 ON REVERSE VOTE. Motion carried 13 to 5 with **REPS. BECKER, D. BROWN, GOULD, McCAFFREE** and **WYATT** voting no. EXHIBIT 16

EXECUTIVE ACTION ON HB 483

Motion/Vote: **REP. DARKO** MOVED HB 483 BE TABLED. Motion carried 17 to 1 with **REP. D. BROWN** voting no.

EXECUTIVE ACTION ON HB 487

Discussion:

REP. D. BROWN stated HB 487 was close to legislation introduced in the last session. With amendments, it could be cleaned up.

REP. DARKO asked if the Legislature fixed the bill over the interim. They did nothing to fix the Senate's objections and didn't include the amendments the committee put on. **REP. WYATT** said it was not addressed or amended as it was in the Senate committee. **REP. SIMPKINS** said he would like to see the amendments offered by **REP. BROWN**. He was concerned that in Great Falls all the city had to do was terminate the lease on a shooting range. Since it is a lease, they don't have to pay for the movement of the range.

Motion/Vote: **REP. STICKNEY** MOVED HB 487 BE TABLED. Motion failed 5 to 13 with **REPS. STICKNEY, BROOKE, CROMLEY, S, J. HANSEN,** and **WALLIN** voting aye. EXHIBIT 17

Discussion:

REP. D. BROWN submitted an amendment. On page 3, strike "lines 3 through 19" and reinsert "the agency unit of local government or

court order ordering the closure shall pay the appraised cost of land and improvements to the range operators; and the range operators shall relinquish their property interests to the agency unit of local government or court." **Bart Campbell** stated he had removed language ordering the court to pay for relocation. There is a separation of powers problem; does the Legislature have the authority to order a court to do something. **REP. BROOKE** stated the Missoula County Commissioners opposed the bill and didn't feel it could be fixed, amendments or no amendments.

Motion/Vote: **REP. BROWN** moved to amend HB 487. Motion carried 16 to 2 with **REPS. BROOKE** and **CROMLEY** voting no.

Discussion:

REP. D. BROWN submitted an amendment. On Page 5, Line 15, after disorderly conduct, discharging firearms except at a shooting range, add the language, "during established hours of operation". On Page 7, Lines 17 and 18 which reads, noises resulting from the shooting activities at a shooting range, insert "during established hours of operation".

Motion: **REP. D. BROWN** moved to amend HB 487.

Discussion

REP. SIMPKINS asked if there was a way to add "within the curfew hours of minors". **REP. BROWN** said the amendments put responsibility on the shooting ranges to establish reasonable hours. If they don't, they face the language the committee passed before.

Vote: Motion to amend HB 487 carried 16 to 2 with **REP. BROOKE** and **CROMLEY** voting no.

Discussion:

REP. STICKNEY expressed concern about Page 2, Sections 3 and 4. The language sounds as if one can never, through zoning, choose not to have a shooting range. **REP. SIMPKINS** agreed and asked if the committee should insert "established shooting range". **REP. WYATT** said their concerns would be addressed in Amendment #2 and 3.

Motion: **REP. S. RICE** moved to amend HB 487.

Discussion:

REP. S. RICE said on Page 5, Line 7, before activities; insert "normal".

Vote: Motion to amend carried unanimously.

Motion/Vote: REP. D. BROWN MOVED HB 487 DO PASS AS AMENDED.
EXHIBIT 18 Motion carried 16 to 2 with REPS. BROOKE and CROMLEY
voting no.

EXECUTIVE ACTION ON HB 716

Motion: REP. BROOKE moved HB 716 Do Pass.

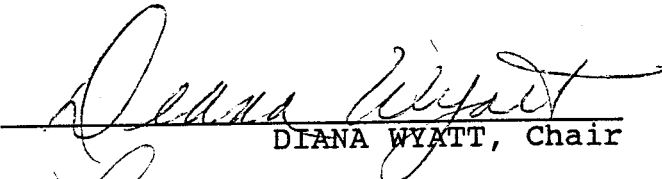
Discussion:

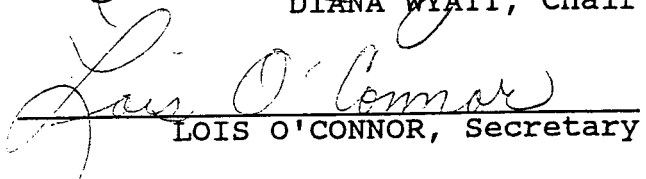
REP. SIMPKINS said language must be included to insure that incorporated cities are excluded if they have an animal control program. Bart Campbell stated there would be a conceptual problem. In the section dealing with districts, the state establishes districts for dog control; these are multi-jurisdictional districts. If he changes it, it must be changed in all areas of the bill to make sure there is no double taxation. REP. DARKO asked if "animal" control could be set up or does it have to be "dog" control. Mr. Campbell stated he would rather not amend HB 716 on the spot as Title 7 varies widely; and he wants to be sure everything is correct.

Motion/Vote: REP. GOULD MADE A SUBSTITUTE MOTION THAT HB 716 BE TABLED. Motion carried 13 to 5 with REPS. BROOKE, D. BROWN, DOWELL, DARKO, and STICKNEY voting no.

ADJOURNMENT

Adjournment: 6:30 P.M.


DIANA WYATT, Chair


LOIS O'CONNOR, Secretary

DW/lo

HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE 2-19-91

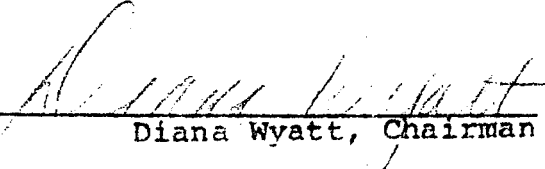
NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown	X		
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice	X		
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Local Government report that House Bill 487 (first reading copy -- white) do pass as amended

Signed: 
Diana Wyatt, Chairman

And, that such amendments read:

1. Page 2, line 7.

Following: "would"

Insert: ":",

2. Page 2, line 8.

Following: line 7

Insert: ":(1)"

Strike: "or inhibit"

Following: "operation of"

Strike: "a"

Insert: "an existing"

Following: "range"

Insert: "as a nonconforming use;

(2) prohibit the establishment of new shooting ranges,
but it may regulate the construction of shooting ranges to
specified zones; or

(3) prevent the erection or construction of safety
improvements on existing shooting ranges"

3. Page 2, lines 11 and 12.

Following: "may not"

Insert: ":(1)"

Strike: "or inhibit"

Following: "operation of"

Strike: "a"

Insert: "an existing"

Following: "range"

Insert: "as a nonconforming use;

(2) prohibit the establishment of new shooting ranges,
but it may regulate the construction of shooting ranges to
specified zones; or

(3) prevent the erection or construction of safety
improvements on existing shooting ranges"

4. Page 2, line 19.

Strike: "(a)"

5. Page 2, line 24.

Strike: "(i)"

Insert: "(a)"

6. Page 3, lines 3 through 19.

Strike: lines 3 through 19 in their entirety

Insert: "(b) the agency or unit of local government obtaining the closure pays the appraised cost of the land together with improvements to the operators of the shooting range. In return the shooting range operators shall relinquish their interest in the property to the agency or unit of local government obtaining the closure."

7. Page 4, line 12.

Following: "deposits"

Insert: "directly"

Strike: "the"

8. Page 5, line 7.

Following: "(b)"

Insert: "normal"

9. Page 5, line 15.

Following: "range"

Insert: "during established hours of operation"

10. Page 7, line 18.

Following: "range"

Insert: "during established hours of operation"

10
DATE 2-19-91
HB 487

8 February 1991

Testimony of Clyde G. Byerly

Subject: House Bill 487, Shooting Range Protection Bill.

I wish to express support for the bill. I represent the Montana Rifle and Pistol Association, a large membership organization of shooting sports enthusiasts and hunters in the state. We are the umbrella organization for many organized local shooting clubs throughout the State.

This bill will benefit the general public as well as sport shooters in that there will be shooting ranges near our cities for the foreseeable future. In many cities, these existing ranges are used for training of law enforcement personnel and other private agencies that must be proficient in the handling of firearms. The use of ranges for shooting sports activities will minimize the possibility of shooters practicing in public areas and other areas that could be detrimentally affected by litter and noise problems. Without ranges designated for sport shooting, there could be safety as well as environmental problems in areas surrounding our cities.

If cities determine that it is necessary to encroach on existing ranges, it is logical and correct that the range be relocated at the expense of the benefitting party.

This bill will also benefit the Dept of Fish, Wildlife and Parks by ensuring that ranges are available to support the hunter safety program for the training of our youth to qualify them to participate in shooting sports and hunting activities.

The safe use of firearms has been part of our public heritage for generations, let's continue this for future generations.

In conclusion, the Montana Rifle and Pistol Association would like to commend Representative Wyatt for her efforts and we urge your favorable consideration of this bill.

DATE 11
2-19-91
PAGE 487

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Ray Harbin ~~BUDGET~~

ADDRESS 106 4th AVE E., Polson, MT 59860

WHOM DO YOU REPRESENT? MACO

SUPPORT _____ OPPOSE _____ AMEND X

COMMENTS: Suggested Amendments to HB-487

PAGE 2 Line 23 delete 'all of', delete 's' on conditions
and change 'are' to 'is'.

Page 3 Line 2. delete semi-colon and add the word 'and';

Page 3 Line 3 delete from line 3 through line 19
and replace with

"the agency, unit of local government, or court
ordering the closure shall pay the appraised cost
of land and improvements to the range operators, and
the range operators shall relinquish their property
interest to the agency, unit of local government, or
court."

EXHIBIT 12
DATE 2-19-91
HB 487

MESSAGE TO MONTANA LEGISLATOR

DATE: 2/18/91

TIME: 4:25

TO: Rep. Norm Wallin

MESSAGE: Please vote
against HB 487
in the Local
Government Committee
meeting tomorrow.
This is the shooting
range bill that
was defeated last
session.

Thanks

Mary Kay Peck

Billings County Planning Comm.

FROM: _____

Commissioners
Russell J. Ritter, Mayor
Margaret A. Crennen
Tom Huddleston
Mike Murray
Blake J. Wordal



EXHIBIT 13
DATE 2-19-91
487

City-County
Administration Building
316 North Park
Helena, MT 59623
Phone: 406/442-9920

William J. Verwolf
City Manager

City of Helena

February 19, 1991

Chairman Diana Wyatt

House Local Government Committee
State Capitol Building
Helena, Montana 59620

Dear Chairman Wyatt and Members of the House Local Government Committee:

This letter is written to express concerns about -- and opposition to -- HB 487, "An Act Protecting Shooting Range Locations; Exempting Shooting Ranges from Certain Laws Relating to Litter Control, Community Decay, Disorderly Conduct, and Public Nuisance; Amending Sections 7-5-2109, 7-2-5-2110, 45-8-101, 45-8-111, and 76-2-206, MCA; and Providing an Effective Date."

The City of Helena opposed this bill last legislative session, and I am speaking in opposition to this bill again today. As this bill was introduced in 1989, and again in 1991, I regret that the title of the proposed bill does not specifically state that it would exempt shooting ranges from the planning and zoning statutes.

The planning and zoning statutes (Title 76, Chapters 1 and 2 respectively) are intended "to promote the orderly development of [Montana's local] governmental units and environs." The purpose of Chapter 1 is to "encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that ... residential areas provide healthy surroundings for family life...." (76-1-102, MCA)

Chapter 2 states that zoning is authorized "for the purpose of promoting health, safety, morals, or the general welfare of the community" and that a city and a county are empowered to regulate and restrict the location and use of buildings, structures and land.... The statutes further state that zoning regulations "shall be made in accordance with a comprehensive plan and designed to secure safety from fire, panic and other dangers; to promote health and the general welfare.... Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of the land...." (76-2-203 and 76-2-304, MCA)

The planning and zoning statutes are intended to maintain some protection for the public's safety and general welfare while also protecting their property values. Through the public hearing process, a community can determine which uses are compatible and appropriate -- and inappropriate -- in certain locations. Eliminating this local government review does not allow compatibility with the adjacent land uses to be considered. A shooting range

could negatively affect property values if noise and safety concerns cannot be adequately addressed -- which is contrary to protecting the public's safety and general welfare.

As a result, HB 487 would essentially reduce the rights of private property owners to protect their property values, and provides an unfair advantage to shooting ranges the expense of the people. The laws are intended to provide for the health, safety and general welfare of all of Montana's citizens, and should not be allowed to give an unfair advantage to a special interest group at the general public's expense.

If the proposed bill is intended to address existing shooting ranges, it does not clearly state that purpose. Page 2, Section 3, "Planning -- effect on shooting ranges" (as presented in the bill) states: "The laws of this state concerning planning, master plans, or comprehensive plans may not be construed to authorize an ordinance, resolution, or rule that would prevent or inhibit the operation of a shooting range."

Section 4, "Zoning -- effect on shooting ranges" states: "A planning district master plan, recommendation, resolution, rule or zoning designation may not prevent or inhibit the operation of a shooting range."

Because the bill does not state that these zoning and planning laws affect only existing shooting ranges, the interpretation is that these exceptions would also apply to new shooting ranges.

Any existing use -- even if it becomes a non-conforming use after the zoning regulation is adopted -- would be allowed to continue. This provision is already stated in the existing law: "Existing non-conforming uses may be continued although not in conformity with such zoning regulations" (76-2-105, MCA). Therefore, a use that was established before the zoning regulation was adopted -- even if it should be non-conforming for the zone -- and would be allowed to continue ("grandfathered in") at that location. When the law already provides this consideration, why would HB 487 even be necessary?

The proposed bill states that the only way a shooting range could be prevented from operating is if it presents "a clear and provable safety hazard." Does that mean that a pedestrian, jogger, bicyclist, or a motorist has to be hurt by a stray bullet to show that "a clear and provable safety hazard" exists? This safety concern -- in addition to noise and litter -- is especially important if the shooting range is an open outdoor range and these concerns cannot be even considered through the zoning process.

The proposed bill would exempt shooting ranges from any litter control. Considering that the bill would allow shooting ranges to be located in any area, leaving lead, copper, or brass deposits -- whether they be shells that have been fired or not -- so that they could easily be picked up by children would not contribute to the safety of the general public.

Diana Wyatt
Chairman ~~Esther Bengsten~~
HB 487
Page 3

The proposed bill would exempt shooting ranges from ordinances intended to control noise. As a result, people could be subjected to the noise of rifles, and even semi-automatic rifles, at any time of the day or night! Lastly, referring to the policy statement of HB 487, I question if exempting shooting ranges from planning and zoning statutes would sincerely provide for the health, safety, welfare of the citizens of the state.

Again, I would like to restate the following comments: The planning and zoning statutes are intended to maintain some protection for the public's safety and general welfare while also protecting their property values. Zoning also affords this same protection to shooting ranges. Through the public hearing process, a community can determine which new uses are compatible and appropriate -- and inappropriate -- in certain locations. Eliminating this local government review does not even allow the public's safety (through compatibility with the adjacent land uses) to be considered.

I SINCERELY HOPE THAT YOU WILL CONSIDER THE NEGATIVE EFFECTS OF THIS BILL AND NOT PASS HB 487.

Sincerely,

Kathy Macefield
Kathy Macefield, City of Helena

File: HB487.'91

17
DATE 2-19-91
HB 487

HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 1-19-91 BILL NO. HB 487 NUMBER
MOTION: TABIE Failed 5-13

NAME	AYE	NO
REP. PAULA DARKO		X
REP. JESSICA STICKNEY, VICE-CHAIR	X	
REP. JOE BARNETT		X
REP. ARLENE BECKER		X
REP. VIVIAN BROOKE	X	
REP. DAVE BROWN		X
REP. BRENT CROMLEY	X	
REP. TIM DOWELL		X
REP. BUDD GOULD		X
REP. STELLA JEAN HANSEN	X	
REP. HARRIET HAYNE		X
REP. ED MCCAFFREE		X
REP. TOM NELSON		X
REP. JIM RICE		X
REP. SHEILA RICE		X
REP. RICHARD SIMPKINS		X
REP. NORM WALLIN	X	
REP. DIANA WYATT, CHAIR		X

Amendments to House Bill No. 487
First Reading Copy

For the Committee on Local Government

Prepared by Bart Campbell
February 20, 1991

1. Page 2, line 7.
Following: "would"
Insert: ":

2. Page 2, line 8.
Following: line 7
Insert: ":(1)"
Strike: "or inhibit"
Following: "operation of"
Strike: "a"
Insert: "an existing"
Following: "range"
Insert: "as a nonconforming use;
 (2) prohibit the establishment of new shooting ranges,
 but it may regulate the construction of shooting ranges to
 specified zones; or
 (3) prevent the erection or construction of safety
improvements on existing shooting ranges"

3. Page 2, lines 11 and 12.
Following: "may not"
Insert: ":(1)"
Strike: "or inhibit"
Following: "operation of"
Strike: "a"
Insert: "an existing"
Following: "range"
Insert: "as a nonconforming use;
 (2) prohibit the establishment of new shooting ranges,
 but it may regulate the construction of shooting ranges to
 specified zones; or
 (3) prevent the erection or construction of safety
improvements on existing shooting ranges"

4. Page 2, line 19.
Strike: "(a)"

5. Page 2, line 24.
Strike: "(i)"
Insert: "(a)"

6. Page 3, lines 3 through 19.
Strike: lines 3 through 19 in their entirety
Insert: "(b) the agency or unit of local government obtaining
 the closure pays the appraised cost of the land together
 with improvements to the operators of the shooting range.
 In return the shooting range operators shall relinquish

their interest in the property to the agency or unit of local government obtaining the closure."

7. Page 4, line 12.

Following: "deposits"

Insert: "directly"

Strike: "the"

8. Page 5, line 7.

Following: "(b)"

Insert: "normal"

9. Page 5, line 15.

Following: "range"

Insert: "during established hours of operation"

10. Page 7, line 18.

Following: "range"

Insert: "during established hours of operation"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Gov.
DATE 8-19-91

COMMITTEE

BILL NO. 487

SPONSOR(S)

Wyatt

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gordon Morris	MAA		X
Clyde Boverly	mt. R. fl. + P. stl assoc	✓	
Bill Bigelow	NRA	✓	
A. M. Elwell	WCSA	✓	
Mered PATTON	City of GF		✓
Roger Rasmussen	MT Assoc. of Planners		✓
Kathy Macefield	City of Helena		✓
Dan Sanders	Cascade County		X
Kay HARBIN	LAKE County		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
 FINAL COMMITTEE REPORT OF REFERRED BILLS
 COMMITTEE--(S) FISH & GAME

PAGE NBR..... 205
 RUN TIME13:25
 RUN DATE.... 06/04/91

CHAIRMAN--BOB WILLIAMS

NORMAL SCHEDULE==> SITE: ROOM 402

DAYS: T,TH,S

TIME: 3:00 P.M.

SECRETARY--JULIA LEVENS

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0390	2/25	3/12		CONCUR AS AMENDED		3/15
REAM, BOB			ELIMINATE SALE OF SPECIAL WILD BUFFALO LICENSES			
HB0403	2/08	3/07		CONCUR AS AMENDED		3/08
SPRING, JR., WILBUR			REQUIRE F & G COMMISSION TO ADOPT RULES ON FALCONRY AND RAPTORS			
HB0487	2/25	3/14		CONCUR		3/27
WYATT, DIANA			LIMIT RELOCATION OF SHOOTING RANGE AND COMPENSATE FOR RELOCATION OF RANGE			
HB0495	2/27	3/21		CONCUR		3/22
HARPER, HAL			ESTABLISH POLICY TO ADDRESS STATE PARK & FISHING ACCESS SITE IMPROVEMENTS			
HB0556	2/25	3/19		CONCUR AS AMENDED		3/27
REAM, BOB			REVISE LAW ON IDENTIFICATION, TRANSPORTING, & INSPECTION OF GAME FARM ANIMAL			
HB0563	2/27	3/14		CONCUR		3/27
KNOX, DICK			ELIMINATE FEE TITLE REQUIREMENT FOR LANDOWNER PREFERENCE ON ELK LICENSES			
HB0576	2/27	3/14		CONCUR AS AMENDED		3/27
HARPER, HAL			REQUIRE EIS ON IMPORT OR TRANSPLANT OF FISH AND INCREASE PENALTY			
HB0613	2/20	3/07		CONCUR		3/27
ELLISON, ORVAL			ESTABLISH 3RD WEEK OF SEPT AS OFFICIAL OBSERVANCE OF MONT HUNTING HERITAGE			
HB0615	3/11	3/21		CONCUR		3/22
THOFT, BOB			ALLOW 3-DAY NONRESIDENT SHOOTING PRESERVE BIRD HUNTING STAMP & REVISE SEASON			
HB0833	3/15	3/21		CONCUR AS AMENDED		3/27
LEE, THOMAS			REVISE WATERCRAFT LAWS; REVISE MARINE NOISE, SAFETY AND SEWAGE LAWS			
HB1002	4/09	4/11		TABLED ON 04/12		
ELLISON, ORVAL			GENERALLY REVISE LAW RELATING TO OUTFITTERS AND GUIDES			

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH & GAME

Call to Order: By Bob Williams, on March 14, 1991, at 3:40 P.M.

ROLL CALL

Members Present:

Bob Williams, Chairman (D)
Don Bianchi, Vice Chairman (D)
John Anderson Jr. (R)
Eve Franklin (D)
Lorents Grosfield (R)
Greg Jergeson (D)
Dick Pinsoneault (D)
David Rye (R)
Paul Svrcek (D)
Bernie Swift (R)

Members Excused:

None

Staff Present: Andrea Merrill (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

Roll taken and noted.

EXECUTIVE ACTION ON HB 390

Amendments, Discussion, and Votes:

Chairman Williams presented amendments and asked Representative Ream, sponsor of HB 390, to explain them. The amendments will retain the buffalo as a game animal and would eliminate the buffalo hunt so that it will require an act of the legislature to reinstate the hunt.

Senator Jergeson supports the amendments presented. He was very disappointed that no animal rights representatives had the courage of their convictions to come before the committee at the hearing.

stream. This bill will affect State policy on leased land as these lands at the present time are under the control of the lessee. This bill will now allow State and Federal managers to specify in accord with environmental regulations areas where streams can be ridden in.

Proponents' Testimony:

Linda Ellison, land use coordinator for Montana Trail Vehicle Riders Assn., supports HB 359. See Exhibit No. 2.

Tom Kilmer, Helena, supports HB 359. See Exhibit No. 3.

Susan Leonard, Montana Audubon Legislative Fund, supports HB 359.

Valarie Horton, Montana Wildlife Federation, gives her support for HB 359.

Tony Schoonen, Butte Skyline Sportsmens Club, supports this bill.

Bob Lane, Chief Legal Council for Fish, Wildlife and Parks, supports HB 359. See Exhibit No. 4.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Pinsoneault asked Rep. Harper why a person on an ATV would want to drive up and down a stream bed? Rep. Harper stated that the Suzuki advertisement demonstrates a man driving in a stream bed with water flying.

Senator Swift asked if legislation would require more work for the FWP? Rep. Harper explained that it would not and private landowners are in favor of this bill as people on ATVs can ride up the middle of a stream and be right in the middle of their land.

Closing by Sponsor:

Representative Harper urged the committee's support and a do pass.

HEARING ON HB 487

Presentation and Opening Statement by Sponsor:

Representative Wyatt, House Dist. No. 37, explained that HB 487 is a policy statement bill for pre-existing shooting ranges much like the exemption for an airport authority, meat packing plants,

or other facilities that exist within a city or a county limit. They should have the right to retain their facilities.

Proponents' Testimony:

Clyde Byerly, Vice President of the Montana Rifle and Pistol Assn., supports HB 487. See Exhibit No. 5.

Gary Marbut, Missoula, President of the Montana Shooting Sports Assn., supports HB 487. Ranges across the U.S. are being closed primarily because of population encroachments. This is a serious problem on a national scale and beginning to be a problem in Montana. We would like to proactively address the situation before it becomes a serious problem. When the bill was introduced into the House, it had a provision for local governments, that if they received too many complaints and didn't have any way to deal with the range, one thing they could do was to relocate the range. The local government would have had to pay the bill for relocating the range but it would have given them some flexibility. Amendments were made in the House to strike that provision for relocation of the range and those amendments were offered to the House by Commissioner Ray Harbin of Lake County. These are the amendments that you see in the bill now. We concur with those amendments with one condition. We are concerned about a local government being able to buy out a range as our intent of the bill is to keep shooting ranges open. Urges passage of this bill.

Ray Harbin, Commissioner of Lake County, is concerned about the ability of a local government to pay the appraisal value of land plus improvements which requires three independent appraisals to be made and the average cost be taken. He feels the bill is acceptable and urges the committee to pass.

Alfred Elwell, representing WCSM, supports HB 487. He questions why a person would build a home, which is a lasting investment, in an area which is known to have a shooting range and then complain because of the litter, presumed community decay and public nuisance.

Pat Graham, Deputy Director of Fish, Wildlife and Parks, has a shooting range development program and very highly supports this legislation as amended.

Opponents' Testimony:

Cheryl Patton, Assistant City Manager for the City of Great Falls, opposes HB 487. See Exhibit No. 6.

Robert Rasmussen, representing the Montana Assn. of Planners, opposes HB 487. They do support the goals and purpose of this bill as far as determining safe shooting areas.

Kathy Macefield, City Planning Director for the City of Helena, opposes HB 487. See Exhibit No. 7.

Questions From Committee Members:

Senator Svrcek asked Clyde Byerly whether the littering in shooting ranges that include trap and skeet would mean some shotgun shells. Mr. Byerly said that an exemption should be asked for that.

Senator Svrcek asked Commissioner Harbin if he has any objection to the eminent domain procedures wording in the bill? He stated that he didn't really care but felt the language was not necessary.

Senator Svrcek commented that Ms. Macefield raises a lot of concerns regarding the established hours of operation section. Mr. Byerly explained that there are some shooting ranges that have lighting which would allow shooting after dark. Most shooting activities are scheduled within the daylight hours. Gary Marbut interjected that 95% of the ranges in Montana must be used during daylight hours.

Senator Jergeson asked Cheryl Patton about the amendments she has suggested. Ms. Patton feels that this legislation left unamended would limit their (City of Great Falls) options for continued use of that land. They feel this bill doesn't even need to exist. Planning ordinances take care of this situation and State laws provide for eminent domain.

Closing by Sponsor:

Representative Wyatt urged committee support of HB 487. She recommended Senator Jacobson to carry on the Senate floor if this bill passes out of committee.

HEARING ON HB 563

Presentation and Opening Statement by Sponsor:

Representative Knox, House Dist. 29, explained HB 563 which addresses an inequity that now exists in the special elk permit for landowner preference. As the application now reads, the landowner must own his land in fee title before he qualifies for a special elk permit. The elk are expanding out of the CMR (Charlie Russell Game Range). In the past five years they have moved from the Robinson Bridge to up the Judith River. These elk are doing a great amount of damage to crops and those land purchasers should get to use their landowner preference.

EXHIBIT NO. 5DATE 3/14/91BILL NO. HB 487

14 March 1991

Testimony of Clyde G. Byerly

Subject: House Bill 487, Shooting Range Protection Bill.

I wish to express support for the bill. I represent the Montana Rifle and Pistol Association, a large membership organization of shooting sports enthusiasts and hunters in the state. We are the umbrella organization for many organized local shooting clubs throughout the State.

This bill will benefit the general public as well as sport shooters in that there will be shooting ranges near our cities for the foreseeable future. In many cities, these existing ranges are used for training of law enforcement personnel and other private agencies personnel that must be proficient in the handling of firearms. The continued use of ranges for shooting sports activities will minimize the possibility of shooters practicing in public areas and other areas that could be detrimentally affected by litter and noise problems. Without ranges designated for sport shooting, there could be safety as well as environmental problems in areas surrounding our cities.

If cities determine that it is necessary to encourage or existing ranges, it is logical and correct that the range be relocated at the expense of the benefitting party.

This bill will also benefit the Dept. of Fish, Wildlife and Parks by ensuring that ranges are available to support the hunter safety program for the training of our youth to qualify them to participate in shooting sports and hunting activities.

The safe use of firearms has been part of our public heritage for generations, let's continue this for future generations. The near unanimous passage of this bill in the House reflects the importance that the people of Montana attach to shooting sports.

In conclusion, the Montana Rifle and Pistol Association urges your favorable consideration of this bill.

Clyde G. Byerly

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 14 day of March, 1991.

Name: Cheryl Patton

Address: City of Great Falls, P.O. Box 5021
Great Falls, MT 59403

Telephone Number: 727-5881

Representing whom?

City of Great Falls

Appearing on which proposal?

HB 487

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Commissioners
Russell J. Ritter, Mayor
Margaret A. Crennen
Tom Huddleston
Mike Murray
Blake J. Wordal



SENATE FISH AND GAME

EXHIBIT NO. 7
DATE 3/14/91
BILL NO. HB 487

City-County Administration Building
316 North Park
Helena, MT 59623
Phone: 406/442-9920

William J. Verwolf
City Manager

City of Helena

March 14, 1991

Chairman Bob Williams
Senate Fish and Game Committee
State Capitol Building
Helena, Montana 59620

Dear Chairman Williams and Members of the Senate Fish and Game Committee:

My name is Kathy Macefield, Planning Director for the City of Helena. I am appearing on behalf of the City of Helena to express concerns about -- and opposition to -- HB 487, "An Act Protecting Shooting Range Locations; Exempting Shooting Ranges from Certain Laws Relating to Litter Control, Community Decay, Disorderly Conduct, and Public Nuisance; Amending Sections 7-5-2109, 7-2-5-2110, 45-8-101, 45-8-111, and 76-2-206, MCA; and Providing an Effective Date."

The City of Helena opposed this bill last legislative session, and I am speaking in opposition to this bill again today. As this bill was introduced in 1989, and again in 1991, I regret that the title of the proposed bill does not specifically state that it would amend the planning and zoning statutes.

The planning and zoning statutes (Title 76, Chapters 1 and 2 respectively) are intended "to promote the orderly development of [Montana's local] governmental units and environs." The purpose of Chapter 1 is to "encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that ... residential areas provide healthy surroundings for family life...." (76-1-102, MCA)

Chapter 2 states that zoning is authorized "for the purpose of promoting health, safety, morals, or the general welfare of the community" and that a city and a county are empowered to regulate and restrict the location and use of buildings, structures and land.... The statutes further state that zoning regulations "shall be made in accordance with a comprehensive plan and designed to secure safety from fire, panic and other dangers; to promote health and the general welfare.... Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of the land...." (76-2-203 and 76-2-304, MCA)

The planning and zoning statutes are intended to maintain some protection for the public's safety and general welfare while also protecting their property values. Through the public hearing process, a community can determine which uses are compatible and appropriate -- and inappropriate -- in certain locations.

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By Bob Williams, on March 26, 1991, at 3:25 P.M.

ROLL CALL

Members Present:

Bob Williams, Chairman (D)
Don Bianchi, Vice Chairman (D)
John Anderson Jr. (R)
Eve Franklin (D)
Lorents Grosfield (R)
Greg Jergeson (D)
Dick Pinsoneault (D)
David Rye (R)
Paul Svrcek (D)
Bernie Swift (R)

Members Excused: None

Staff Present: Andrea Merrill (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

Roll taken and noted.

EXECUTIVE ACTION ON HB 556

Amendments, Discussion, and Votes:

Representative Ream presented and gave an explanation of amendments to HB 556 which is a bill regulating game farms. See Exhibit No. 1.

Director K. L. Cool of FWP feels that the amendments are an acceptable compromise. The Commission would be used to establish any restrictions through their normal rule-making process.

Charles Brooks, representing the Game Farmers, expressed some concerns. As these are domesticated animals, they would like to be classed under livestock realizing the FWP should have some administration also. They also feel comfortable with the rule-

EXECUTIVE ACTION ON HB 576Amendments, Discussion, and Votes:

Senator Svrcek offered amendments to HB 576 which legislation to revise the law regarding the transplantation or introduction of wildlife by requiring an environmental impact statement prior to transplantation or introduction of a fish species in Montana. The amendments would provide for public awareness and reward persons who turn in offenders through the TIP-MONT program.

Committee members discussed a penalty for willfully dumping fish into rivers, streams and lakes which are not native to Montana waters.

Vice-Chairman Bianchi made the motion to approve amendments presented by Senator Svrcek. The motion passed with Senator Grosfield voting no.

Recommendation and Vote:

Senator Svrcek made the motion to concur HB 576 as amended. Motion passed with Senator Grosfield voting no. Senator Svrcek will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 487Discussion:

Senator Franklin has looked over the amendments presented by the City of Great Falls which expressed their concern with the shooting range being operated on land leased from the City of Great Falls. The City feels they will have no recourse under this legislation to close the range if they choose to use it for other purposes. They have asked to include the amendments "land owned by the operator" so it would release them from language that locks them into a permanent commitment to an area of land.

Senator Jergeson expressed concern with these suggested amendments, where private land could be leased by the shooting range operator which would allow local government to close down a shooting range on land that they do not own.

Senator Jergeson gave an example of a feedlot operator who is established in an area and a group of people start building around him, then complain about the smell, and insist that he be closed down. If a person builds close to a shooting range he should be aware there are certain things that may get on your nerves such as the noise. You freely made the choice to build in

that area; therefore, you cannot force the shooting range, feedlot, etc. to close.

Senator Swift commented that there was one entity against this bill which was the planners and government employed people who do the planning, subdivision and zoning. The real crux of the complaint was they wanted the authority to decide which is the nonconforming use under the planning procedure.

Recommendation and Vote:

Senator Jergeson made the motion that HB 487 be concurred. Motion passed with Senators Pinsoneault and Rye voting no. Senator Bianchi will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 359

Amendments, Discussion, and Votes:

Senator Grosfield recommended an amendment to HB 359, a bill to prohibit operation of off-highway vehicles on public land, which would clarify the language of the bill.

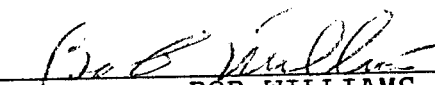
Senator Swift made the motion to approve the amendment. Motion passed unanimously.

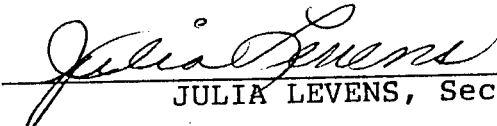
Recommendation and Vote:

Senator Bianchi made the motion to concur HB 359 as amended. Motion passed unanimously. Senator Bianchi will carry the bill on the Senate floor.

ADJOURNMENT

Adjournment At: 5:09 P.M.


BOB WILLIAMS, Chairman


JULIA LEVENS, Secretary

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 27, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 487 (third reading copy -- blue), respectfully report that House Bill No. 487 be concurred in.

Signed. _____

Bob Williams, Chairman

LB 3/27/91
Amd. Coord.

DL 3/27 1990
Sec. of Senate